

Dieter Grunow

New Public Management Reform and Corruption in Germany (2011/2013)

Preface

This paper has been presented at an ECPR panel - on functions and dysfunctions of corruption - in Potsdam 2009. By following the suggestions of the panellists it was turned in for publication in a journal (early 2011) – but it was not accepted. The basic argument of the paper reviewers was that the empirical evidence is not sufficient to support the basic assumption/hypothesis. Although this argument is acceptable¹, it is as well a misunderstanding. The ECPR panel was organized to identify areas of future research in this field, to raise questions and direct research rather than to provide comprehensive answers. It was the aim of the conference contributions and of this paper to develop the basis of a joint research program. However, at the end, this idea was not realized.

All of this has led me to the question whether this paper should still be made available to the scientific audience. By looking at the reviews I was not completely convinced by their arguments; in addition, there are possibilities to add some material – because now there is no strict limit to size, and because new developments allow for more examples to support the arguments of the paper. Therefore, I decided to make it available as a discussion paper (as it was for the Potsdam panel) in the internet.

The following chapters of the paper are mostly identical with the version from 2011; italic parts are later additions: Some give more explanations for issues which have been seen critical by the reviews; some just add some later examples or data. In part, these additions are presented in German language². This also follows comments of the reviewers: the paper might be only/mainly of interest for the German debate about corruption in the public sphere.

¹ However, it should be acknowledged that most of the correlations on the basis of highly aggregated data – like the GDP (growth) vs. any corruption index – share the same difficulties: only correlations, no explanations. Such a type of correlation also exists for the development of NPM applications since the 1990ies – as it was documented by repeated surveys which were launched by the “Deutscher Städtetag” and the statistics about corruption in Germany.

² The format of the paper also allows less concern with English language perfection – as it should have been done by copy editing procedures for the publication in a journal.

Abstract

The paper starts with the empirical observation of a steep increase (up to 700%) of cases of corruption in the public administration of Germany since the mid of the 1990ies. The guiding question is: why did this happen? – and: what does the coincidence with the introduction of New Public Management (NPM) in the early 1990ies mean in this context? NPM is an international movement towards the modernization of the public sector – by transferring tools from the private business sphere to the public sector. The basic thesis of the paper is that *the advent of NPM is the most important single factor to explain the increasing cases of corruption (in Germany)*.

The first part describes the development of corruptive behaviour since 1995 – and some conclusions which can be drawn from the official statistics.

The second part describes in detail the implementation of NPM and thereby indicates those changes of the architecture and processes of public administration which alleviate corruptive behaviour (reduction of control; more staff members deciding about resource allocation etc.). In addition, it is shown that cut back measures are often accompanying and intensifying this trend.

The third part describes how the introduction of specific modernization tools is embedded in the development of new (efficiency/profit-centred) orientations and belief systems. Step by step this process of economization covers the whole public administration and undermines other (equally important) performance measures of the public sector. The consequences of these findings are specified in the sense of general (mis-)trust of the population in public institutions and in the legitimacy of the political system. It is shown that in Germany the corruption issue is not yet endangering these key features of the political system. At the end of this part the possible role of theoretical concepts for setting the research agenda – especially Rational Choice Theory and System Theory – is briefly discussed.

In the fourth part the German case is given up as the reference point of argumentation. As NPM is a movement which is widespread over the world, the question about the possible impact of this reform on countries in other phases of development and/or with an unstable and inefficient public administration (etc.) will be raised. Does NPM endanger or stabilize highly corrupt and/or weak political-administrative systems? These questions will be briefly addressed and proposed for further research and discussion.

Part five summarizes important arguments and open questions.

1. Introduction: the rise of corruption in Germany

Table 1: Uncovered cases of corruption³ in Germany – “the peak of the iceberg”

- 1995: 291 (79=situational corruption as part of all cases)
- 1996: 410 (128”)
- 1997: 993 (114 “)
- 1998: 1072 (97 “)
- 1999: 1034 (191 ”)
- 2000: 1243 (338 “)
- 2001: 1278 (168 “)
- 2002: 1683 (181 “)
- 2003: 1100 (118 ”)
- 2004: 1207 (134 “)
- 2005: 1649 (211 “)
- 2006: 1609 (184 “)
- 2007: 1599 (255 “)
- 2008: 1808 (213 ”)
- 2009: 1904 (254”)
- 2010: 1813 (191”)
- 2011: 1528 (219”)

Source: BKA 2008, p. 5; BKA 2011, p.7, BKA 2012, p. 6

These data – showing the steep increase of cases of corruption in Germany since the mid of the 1990ies - can be seen as the initial motive to present and discuss the topics of this paper. The comments of a BKA-Report (BKA 2005, p. 8) about the cases which were treated in law courts indicate that public administration is the major field where corruption is found (91%): Contracts with business firms, procurement (n=1981), and the construction sector (n=414) were mentioned as fields of action relevant for the cases of corruption. However, these observations are not yet explanations – because there are shifting trends, while the high level which has been reached after the 1990ies seems to be stable. The report concerning 2010 saw the corruption in business prevailing (2/3 of the cases). One of the more general trends seems to be the disproportional strong increase of network based corruption – in contrast to occasional/situational cases. This might already be seen as an indicator of a change of the

³ The precise meaning is “preliminary investigation by public prosecution“ (Ermittlungsverfahren). In a qualitative analysis of about 200 cases half of them were related to corruptive networks, a quarter to each of the other forms: situational; established relationships.

structural basis of administrative processes. The network based formats of corruption in part also can possibly explain the extreme quantitative variation from year to year: a detected network might include many partners which were counted cumulatively⁴. *By looking at another indicator – criminal offenses detected by the police⁵ - this variation is even more extreme.* Another argument concerning the volatile measures relates to increased attention, which is or might be given to this topic by the public, the media and the police. But these are rather weak assumptions⁶.

The formal rules guiding these judicial inquiries are specific for Germany and will not be investigated in detail in this paper. *Appendix 1 gives just an example of existing records.*

It is quite clear that – at least in OECD-countries – corruption in the public sector has a legal – i.e. general judicial and inner-organizational disciplinary - dimension. And, of course, there are also economic, social and political norms implied. In this paper we will not enter into a lengthy debate about definitions and specifications. It is sufficient to base the arguments on a common understanding of corruption in the public sphere – as it was formulated by Rose-Ackerman (2006, p. 45): as “abuse of public power for private and political gain”. It should not be necessary to emphasize, that most often there are two (or more) actors included. They both/all are winners of a completed act of corruption.

This paper wants to put forward the hypothesis that **the introduction of New Public Management (NPM) principles in the public administration since 1990 and increasing corruption rates are not just a coincidence but a co-evolution. With other words, NPM is proposed to be one of the important factors⁷ which explain the steep increase of corruption in the public sector in Germany.**

These NPM principles are not an invention of German administrators. It is an international development. The paper, therefore, has to look also beyond the German NPM practices, into the international context. Although the ranking of Transparency International (2008) puts

⁴ Network based corruption is probably easier to detect – because there are many points of observations or even leaks.

⁵ „Im Berichtszeitraum wurden 46.795 Korruptionsstraftaten polizeilich festgestellt. Gegenüber dem Vorjahr (15.746 Straftaten) hat sich die Zahl der Straftaten nahezu verdreifacht. Damit steigt die Zahl im zweiten Jahr in Folge signifikant an. Bei den Korruptionsstraftaten wurde der höchste Wert seit 1995 registriert, während bei den so genannten Begleitdelikten, also den mit Korruptionsstraftaten unmittelbar zusammenhängenden Straftaten, ein starker Rückgang gegenüber dem Vorjahr zu konstatieren ist.“ (BKA 2011, p. 7)

⁶ Similarly, in a personal communication (22.1.2009) the vice president of the German chapter of Transparency International indicated that during this period (since the midst of the 1990ies) the attention toward corruption was enlarged and new rules were introduced. But this does not really explain the magnitude of the increase. It has to be acknowledged, that growing public attention also has preventive/prohibitive effects.

⁷ It is important to emphasize, that the hypothesis does *not* suggest that it is the only one. This will be illustrated in more detail later in the paper.

Germany on a – rather stable - good middle range position of 14 (rank 1 being the least corruptive system), the analysis of the expected relation between NPM and corruption should include a possible impact from outside (i.e. from NPM “frontrunners”) as well as the effect on other countries - as partners in international business or in foreign aid.

This leads us to three parts of the argument:

1. In the first part the possible impact of NPM-reforms on the prevalence of corruption will be discussed.
2. The second part will address the ideological context – which will be described in the categories of economization of the public sector.
3. In the third part, besides a summary, some arguments are developed with regard to the international dimension of NPM as an intensifier or as a restriction for corruptive practices – especially in developing countries.

2. NPM-Reforms and corruption in the German public sector (administration)

2.1. Empirical observations of the NPM-reform⁸ in Germany

New Public Management reforms can be described as an international reform movement for the public sector. It originated especially in the Anglo-Saxon world (Thatcher and Reagan) and took different paths in various countries. This is one of the reasons, why it has been neither based on a coherent set of prescriptions of good practice in the public sector nor supported by a comprehensive theoretical framework⁹. The base is mainly a box of tools which is taken out of “business administration” into the field of “public administration”. However, there has been a common ground (at least) in terms of the problems perceived with regard to the public sector: the expanding burdens of the welfare systems – leading to a demand for cut back and efficiency measures; the criticism of bureaucratic organization in a public service setting; the supposed “victory” of market coordination over state steering after the end of the “cold war” – and the like. Many of these problems are prevalent on the local (service) level of public administration. Therefore, the first and main focus of NPM was (and still is) the local level.

⁸ There are an overwhelming number of publications about NPM – also in Germany. Most of them, however, are prescriptions; very few are (empirical) evaluations. A summary of different aspects is presented in: Blanke et.al 2010. More specifically: Grunow/Wollmann 1998; Bogumil et.al. 2007; surveys of the DIFU 2005ff.

⁹ During later developments and discourses the concepts of “new institutional economics” have been put into a position of “theoretical guidance” of NPM. More aspects of this development will be described in later chapters.

At the very beginning NPM was seen as a strategy to increase the efficiency of the public sector (public administration) as well as a strategy to avoid privatization on a large scale. The modernization strategies included aspects of organizational structure and decision making chains, staff development and training, performance evaluation (benchmarking; cost-efficiency calculation), customer orientation and others. During the later development, the strategies of privatization, outsourcing, contracting out and Public-Private-Partnership were applied ever more often¹⁰. Many of the tools in the box, however, were not new to the public sector in Germany (or in other OECD countries). They just received new names: management by target agreement (earlier: MBO – management by objectives); decentralized responsibility for resources; increasing the transparency of money flow (earlier PPBS – planning-programming-budgeting system); contracting out and initiating competitive settings with ranking/benchmarking instruments (earlier: compulsory competitive tendering); more service orientation toward customers (earlier: responsiveness of public administration vis a vis the citizens) etc. These types of tools are elements of a continuous search¹¹ for improvements in the performance of the public sector – because it normally lacks a kind of evaluative comparison and competition which (functioning!) markets can establish.

The basic feature of the *NPM-reform in action* – also in Germany - was the application of as many tools as possible in all locations. At the very beginning the major aim was addressing the reform on the local level – on which most of the public services are provided. The driving force in the background of this process was the growing deficit in public budgets in the context of the global expansion of capitalism. NPM was advertised as part of the solution to these budget problems. Later on, the instruments were also applied to other levels of the German government and public administration.

In addition, for Germany three special background features have to be acknowledged: 1. NPM – reforms started rather late (not before the midst of the 1990), due to predominant political-administrative and economic processes of unification; 2. The unification endorsed the role of local democracy, which is traditionally quite strong in Germany (in comparison to UK and other European countries) – which led to a specific combination of goals – concerning local service efficiency and local citizen participation; 3. In Germany a special concept (New Steering Model – NSM) was developed which has put its emphasis on the relationship between politics and administration (steering concept; principal agent concept). Altogether

¹⁰ This has initiated a broad debate about the German “Gewährleistungsverwaltung” (assuring administration) (Schuppert 2005).

¹¹ This process, therefore, has been termed a “perpetuum mobile” by Grunow/Strüngmann (2008). This shifts the focus of discussion from the question whether changes and reforms are necessary to the discussion about effective ways – without too much of collateral damage.

this has led to a very complex reform agenda – by including the various relationships between politics, public administration and citizens/customers.

During the last 15 to 20 years many reform activities have been initiated – especially on the local level of the PAS. But, the early comments about the Germany NPM reform to be “good in rhetoric but poor in implementation/performance”, has accompanied the practical developments continuously. The results of recent evaluation studies, therefore, identify only a heterogeneous and limited implementation success (Bogumil et. al. 2007):

- Although almost all communes reported “some” action, only very few communes – an estimated 10-15% - have implemented a broad spectrum of reform measures (by using a comprehensive understanding of the project). Most of them just “picked up” selected elements from the tool box.
- The most important reform elements – new forms of budgeting and accounting – only recently have been implemented on a large scale (since 2009 pp¹²).
- Even the most often realized tools – citizen office, organized according to a “one window principle”, citizen surveys, appraisal interviews concerning staff members – have only sharply passed the 50% coverage of German communes.

Table 2: Compendium of implemented reform elements

Modernization activity	Realized (by % of 870 responding communes)
Centralized controlling	25,9%
Decentralized Controlling	10,9%
Decentralized responsibility for resource allocation	33,1%
Budgeting	33,1%
Product description	29,0%
Cost- Benefit Calculation	12,7%
Reporting	22,1%
Contracts between Politics and Administration	14,8%
Target agreement between top level administrators and their staff	24,3%
Bonus Payments	22,4%

¹² And this is still today an object of controversial discussions Bogumil/Ebinger/Holtkamp (2011) and (2012); Reichard 2011.

Appraisal Interview (staff related)	62,0%
Recruitment of staff trained in accounting practices	36,1%
Citizen office as one-window organization	57,5%
Quality Management	13,9%
Surveys on citizen/customer opinions	54,7%
Service Guaranties	7,1%

One of the more important elements – the quantity of outsourcing, contracting out and privatization decisions – was not covered in a sufficient way in this study (many “missing” in the answers!). In an earlier survey – of cities only (DIFU 2005, pp. 33-35) –, however, it was found, that 54% of the cities reported “completed actions” with regard to outsourcing etc. – while only 16% (!) did *not* intend to use this reform tool – at the cut edge between public sector and private economy – at all.

2.2 Coupling the development of corruption with NPM reforms (instruments)

The argumentation concerns the relationship between the two sets of empirical evidence which have been presented above. The focus is on corruption as the dependent variable¹³: could the steep increase of corruption practices in the public sector just happen by chance? Is the co-variation with NPM since the early 1990ies just an “unhappy coincidence”. Are there any other explanations put forward?

Corruption is a wide spread and long lasting phenomenon with many causes and boosting conditions. But what can be the reason for such an increase (also) in Germany? As far as I see, until now there are many descriptions, but *no explanation* is offered. One of the reasons for ignoring NPM as a possible element in this respect could be the fact that the evaluation research on this modernization strategy does *not* systematically check for the possible *negative* side effects - of NPM tools – including corruptive practices. This should not be surprising: the normative models and the tools of NPM did not address any “possible dangers” of corruption.

Widespread criticism of NPM - also in Germany – addresses mainly the question of underestimated differences between the public and the private-for-profit sector as well as issues of unfulfilled efficiency promises concerning NPM tools. If corruption is a topic – this rather seems to draw the line between “supporters” and “critics” of the NPM-hype¹⁴. By this, the debate focuses on NPM and not on corruption.

¹³ To emphasize again: the paper is not an overall evaluation of success and failure of NPM reforms. It just picks up one specific issue – concerning the corruption link.

¹⁴ One of the few authors is Maravic: for a summary of various arguments see Maravic 2003 and 2007.

Only recently a colleague directed my attention to the comparative analysis of Neild, who described some of the developments for the UK (and other countries): see appendix 2.

*Especially inspiring is the approach of Neild, where he analyses the historical sequence: 1. corruption in government as a common phenomenon – 2. “clean government” and its context conditions – 3. re-emerging corruption. This directs the attention to two aspects - which will be taken up later again: a. the function of **bureaucratic** rationalization of the public sphere (Max Weber) for producing “clean governments” and b. the **withdrawal** of existing instruments which **delineate** corruption. Consequently, effects of NPM should be analysed in both terms: **encouraging** corruption and **eliminating** existing restrictions (regulations) concerning the spread of corruption.*

However, an expectation of a *tight one-to-one* (causal) relationship between NPM application and corruption practice is not justified and convincing: *much too simple and mechanistic*¹⁵. The issues are complex, the processes are time consuming. Any evidence is almost by definition incomplete (dark figure!).

It seems to be more adequate to observe the relationship in the sense of a “multiple stream analysis” (Kingdon 2001) – indicating that quite a few streams of development have to come together to realize a weak or even tight coupling between the two types of activities or trends under observation.

Without any attempt to elaborate on such a concept, the general idea of multiple stream analysis will be used as a heuristic tool to organize the following arguments¹⁶. The basic question can be formulated as follows: **How do specific practices of NPM modernization fit to corruptive behaviour? And, in addition, in what kind of context will such a mutual fit flourish?**

Qualitative indicators of corruption

Coming back to the issue of increasing corruption in the German public sector it now has to be indicated, what kind of information we can deduce from the (judicial) case classifications. The data indicate, that 80% of the detected cases are placed in the public administration and that the practices are related to a) services (allowances etc.) of public offices; b) procurement decisions (almost 50%) and c) other administrative decisions (concerning positive or negative incentives) (BKA 2008, p. 8). 60% of the cases were found in local administration – an area with many NPM initiatives. Most of the cases resemble the type of structured corruption, whereby in 60% the relationships existed between three and ten years; only 10% were forms of situational (occasional) corruption (BKA 2008, p. 13). The higher levels of staff hierarchy

¹⁵ Nota bene: also any kinds of correlations between macro indicators in a cross-country comparison do not indicate causal relationships. (see footnote 1)

¹⁶ The analysis includes five streams: problems, policies, politics, policy entrepreneurs, windows of opportunity

were disproportional often included in the cases; the longer the staff is responsible for a specific task, the more often they take part in corruption affairs. On the side of the “money givers”, the building industry was dominant and, thereby, the top-levels of management (executive directors) (BKA 2008, p. 12).

NPM tools with possible ties to corruption

There are quite a few reform components of NPM (or NSM) which might instigate or ease corruption practices of the type mentioned above:

The first two examples can be described as a reduction of surveillance and control:

- the reduction of hierarchical levels (“flat hierarchy”), devoted to a faster exchange of information and to faster decision making: it reduces the scope and intensity of control;
- the decentralization of decisions about resource allocation, devoted to more efficient (cost saving) decision making: it gives many more persons in a public organization the power to decide about financial issues (i.e. positive/negative incentives to customers).

The next three examples are the opening of new fields for corruptive behaviour:

- the outsourcing and contracting out of evermore public tasks, devoted to a more efficient (less costly AND more effective) mode of services production: it increases the cases of public procurement – which is a major field of corruption;
- among the fields for outsourcing is the counselling of public administration by private firms;
- the (partly) privatization of public tasks and/or the establishment of public-private-partnerships, devoted to budget reduction and efficiency: it also increases the fields of corruptive practices and, in addition introduces corruption practises from the business or banking world to the public sphere.

The role of the specific context: Possible ties between NPM – Cut back - Corruption

One of the more general unfulfilled expectations or – better – misleading promises of the NPM campaigns was “a fruitful co-evolution of NPM reforms and cutback measures”. From the very beginning this argument has ignored the fact that any reform action needs additional money (costs of transactions or of implementation)¹⁷. This is especially true if change

¹⁷ It is quite another question whether the reforms lead to new everyday practices, which are more cost-effective. Such a question is always an open issue – until the longitudinal evaluation gives the respective evidence. This evidence is even more necessary today – after experiences in the global financial crisis show that there might be failures of rating institutions as well as of public control institutions.

processes take such a long time as NPM did¹⁸. In many single cases – for example disappointing experiences with PPPs or contracting out (v. Weizsäcker 2005) – it has become clear, that there is *no* automatic co-evolution of the implementation of NPM reforms and the solution of budget problems¹⁹.

In general terms, quite a few adverse consequences of this “uneasy” relationship between budget cuts and NPM are illuminated by broad empirical evidence: In the DIFU study (2005, pp. 19-21) 78% of the respondents have seen the co-occurrence of cut-back strategies and NPM-action – to the contrary of the normative propositions – as *the most severe reform barrier*. Therefore, it is necessary to include the “cutback strategies” as a separate factor into the reflection on corruption. A first implication is, that many decisions taken on behalf of reform might just have been forced by budget consolidation or “creative accounting”: privatization (placing parts of the budget into separate, politically unobserved side documents); risky financial transactions: i.e. trans border leasing of public infrastructure – which now bring heavy losses to local budgets in Germany; reduction of staff or less payment (new tariffs for public employees) wherever it is possible – independent of effectiveness issues.

The cut back of employment (with or without NPM tools) – as THE most important tool of cost saving in the public sector - has quite a few possible effects on the corruption issues:

- Insufficient control over the process of procurement: the former “4 eyes principle” (on the public administration side) was often given up²⁰; now it is much easier to make an illegal deal with the private contractor;
- Insufficient steering and control capacity with regard to holding management and the steering of service provision (by third parties);
- Increasing dissatisfaction of staff members with the extension of individual workloads on the one hand and lower salaries on the other hand.

With regard to the last issue mentioned, a survey in a German city administration (Herne 1997) reveals emerging changes concerning the norms of proper behaviour. More than 50% of the staff members showed only limited compliance to the rules of public administration. With differing degrees they agreed with the following arguments: – “Employees in the private

¹⁸ Repeated interviews (Deutscher Städtetag) in local administration has shown, that – in spite of some reported progress - the demand for MORE time increased with each interview panel (see contributions of Hack and Stucke in Grunow/Wollmann 1998, pp 172-187).

¹⁹ A systematic review of this relationship is still missing. Especially the reform/transaction-costs were never made transparent. Much more visible in the media are scandals with regard to “gambling” of local budget administration; recently the cases of criticism by the Landesrechnungshöfe (accounting offices) with regard to PPP-projects of local government are increasing.

²⁰ The “four eye principle” is still seen as one of the most important anti-corruption strategies in Germany.

economy are better off in terms of salaries than I am.” (54%); – “If somebody offers enough money, everybody (in the public sector) might become corrupted.” (16%); – “If the employees would have better salaries they would conform much more to the rules defined by their employer (the state).” (81%!)

This is a quite remarkable deviation from traditional orientations of public servants in Germany. This finding is in accord with the results of corruption case reviews: they indicate that the cases grow out of structural and situational opportunities; offenders are not seen to have a special “corruptive personality and energy”. They are quite ordinary colleagues. But they are ever more often working in an environment which makes it easy to organize corruptive transactions.

By summarizing the arguments we can conclude: there is a corruption problem co-evolving with the introduction of NPM in Germany. Even the number of *detected* cases (not to say anything about the presumably many more hidden cases) has increased quite sharply. One important reason for this increase is the continuous blurring of the state-economy boundaries – especially with regard to contracting out, privatization, cross border leasing, PPP etc.²¹. But there are also other streams of development which are able to contribute to the explanation of the ties between NPM and corruption: organizational structures, decision making procedures, allocation of resources, and (de-) motivation of staff members.

Unfortunately, there is no sufficient database which describes the assumed *direct* links in a systematic way²². However, the few quantitative indicators which are available (at least) do NOT contradict the thesis of this paper: As the number of NPM initiatives and of corruption cases is not equal in all regions of Germany two coincidences can be shown: a) corruption is higher in larger cities – so is the application of NPM-tools; b) corruption rates are highest in Berlin, NRW, Hessen, BW – the intensity of NPM practices is generally higher in West-Germany than in East-Germany (BKA 2008, p 7; Bogumil et al. 2007, p 100). In addition, ever more single cases of corruption which show up in the media – almost every week – can be traced to some of the developments of NPM (and related) initiatives.

However, it has to be kept in mind, that the unequal distribution of the various NPM practices is an important source of variation in the propulsion or unleashing of corruption. There are still elements of retardation and filters stemming from traditional, rather bureaucratic, forms

²¹ Since 2000 ever more cities are formulating an annual report about the shares they hold from separated or privatized parts of local government. In large cities - like Köln - the number of relationships between local governments and “its daughters” can sum up to 400 and even more. (see Edeling et al. 2004)

²² This would demand for a classification of all 11478 German communes with regard to NPM prevalence and corruption incidences. Such a database is not even available for a representative sample of communes.

of decision making and service production (in the sense of Max Weber). In addition, practical awareness of the increase of corruption has resulted in some new preventive programs (corruption telephone of the police; authorized anti-corruption agent in the local administration; seminars; re-accentuation of control; IT-solutions etc.) and some public initiatives against privatization and economization of public sector services (citizens requests and citizen decisions). All this can explain why the ties between NPM and corruption seem to be rather loosely coupled in many instances²³.

Besides the implementation of NPM tools we have described two additional, partly independent developments, which also ease the development of corruption in the forms as described above: cut-back and/or budget manipulations and the change of values and orientations held by public employees. These trends can be interpreted as context phenomena: they are important indirect facilitators of the ties between NPM and corruption. In terms of the “multiple streams” heuristic they can be seen as a “channelling river”. This broad context of the NPM-corruption relationship should be taken up in the next part of the paper.

With this extension the paper follows in some respects the review of Maravic – concerning various factors which have been introduced into the NPM-corruption debate (2003): for a summary of his study see appendix 3.

Different from the aim of Maravic, my paper does not try to summarise the discussions – which – as he indicates are often mainly ideological/normative battles. However, it is also including points of observation which are far beyond the measures of NPM reform.

3. Economization of the public sector

One of the long lasting processes of societal modernization in western (OECD) countries is the development of an organisation society. More specifically, in the sense of Max Weber, this means rationalization (“Zweckrationalität”) by bureaucratization. Such a development includes more or less all segments of society – not only the public sector (which often is set identical with “public bureaucracy”). In this context it has been quite common – and successful - to exchange tools for coordinated (organized), effective and efficient arrangements for decision making and service production even between different sectors of society: military, catholic church, public administration, private business. Such an exchange with regard to examples of presumably “good” organizational practice can be observed since

²³ It should be acknowledged, however, that this argument obviously holds true in both directions of interdependencies: there is no indication that more awareness, control etc. has reduced the number of cases of corruption lately.

many decades of public sector reforms – and it is also a part of the NPM program. It is a kind of permanent fight against administrative malfunctioning (Grunow/Strüngmann 2008). Nowadays, this part of NPM reform is characterized as “Binnenmodernisierung” in the German terminology (i.e. internal modernization).

As has been described above, the guiding model of NPM goes beyond this typical mode of evaluating, criticising and exchanging tools between sectors: *of course, the NPM model first of all is anti-bureaucratic* in the sense of the many typologies which set the “Weber model” into contrast to the NPM -“model” (Jann 2003). By doing so, it is, somehow, overseen that the (Weberian) bureaucratic tools are (among other aims) *anti-corruption* strategies (formally defined tasks; qualified staff; hierarchical control; public organisations are not the personal property or possession of the staff members; staff members are allowed to deny commands from superiors which are illegal etc.). Reducing bureaucratic principles, therefore, can result in a *revival of corruption* (nepotism, arbitrariness etc.) – as we have argued in the preceding parts of the paper. In addition, Weber argued, that public organizations might be surpassed by private for profit organizations with regard to bureaucratic structures and behaviours. Taken together, these arguments might lead to the conclusion of Pollitt and Bouckaert (2000) who describe the NPM-effects as a change toward a kind of “Neo-Weberian public administration”. But this conclusion is still confined to the “Binnenmodernisierung”.

Secondly and more important: *the various other tools, which are crossing the lines of the public-private distinction, are including an anti-state/government notion* – much more than an *anti-bureaucratic* notion. Besides the application of the respective NPM tools the notion is also supported and transported by cutback strategies (slimming down the state) and symbolized by findings about changing orientations of public employees (see above). For this process we’ll use the term “economizing” of the public sector (tasks). In this sense NPM does not only transport a special set of normative propositions for using tools of public management, but also boosts an ideology of the superiority of economic thinking and capitalistic arrangements²⁴. *NPM has become and/or has “feeded” a kind of belief system*²⁵. By borrowing from the “multiple streams” heuristic again, this belief system fits quite well into the arguments about the “end of history” (Fukuyama) and the victory of the capitalistic

²⁴ In the public debate about success and failure of reform initiatives this thinking could be observed clearly in Germany: quite often, public officials - who described their successful solution to budget (and other) problems in their local administration - were still asked why they did not install NPM principles. The addition to NPM – but not the successful solution of administrative problems – has been applauded. However, also another strategy could be observed: due to the “open” character of NPM tools any success-story could be traced to NPM propositions.

²⁵ Or - like in California: when a comparative evaluation demonstrated much *higher costs of the private for profit management* of Patient-Professional relation/interaction - in contrast to the *Canadian public format for this task* - a shift towards the more efficient public sector solution did *not* take place.

economic thinking – especially after the end of the “cold war”. Such “stream” functions are the context for specific modes of economic thinking and, thereby, different language, interpretations of terms and concepts (especially: efficiency = profit) as well as different orientations and motives of the actors are transported into the public setting. This includes different ways how to think about human capital and profit or about bribery, malversation, embezzled money etc. With other words, the observation, that NPM in Germany was especially “successful in rhetoric” and in diffusing a new terminology loses its *ironic* tone: a very important battle *was won*. This is especially true for the profession of business administration.

Only a few years ago, in Germany the money spent for bribery could be deduced as “necessary costs” from the tax load of business firms. During the last months the German public could get the impression, that our chancellor Mrs. Merkel, if asking for advice from some of her councillors (from banks and other business), would have to visit them in jail. Not long ago, the often used term “notleidende Banken” (suffering banks) was chosen as the “Unwort” (anti-term) of the year 2008, because of its ideological reverse of the realities: the banks are described as victims of the financial crisis – although they are the originators. A study about the orientation of the managers of (partly) privatized (local) public companies reveals that the majority of them see themselves as a part of the private economy sector – and should follow their own and the interests of the company and not of the commune. The behaviour of the public bank sector in Germany (Landesbanken) in the context of the financial crisis provides additional evidence for this observation. The latest example: In a heavily debated book of today (Schirrmacher 2013) the role of a game-theoretic “EGO-model” in the interpretation and design of private business – as well as in the conceptualization of the worldwide economic transactions – is described in depth.

In this paper, the issue of economization will be illustrated – however, much more down to earth - within two areas²⁶: change in values and performance indicators and the counselling of the public sector institutions by private for profit companies or advisors.

3.1 Values and performance criteria

Values and questions of ethics in the public sector are used as input and guiding principles for many administrative activities. Performance criteria are output oriented. Today, they largely follow the propositions of New Public Management (NPM) reforms (Pollitt and Bouckaert 2000). However, it has to be acknowledged that performance criteria might become an end

²⁶ These descriptions are partly taken from Grunow 2007

(value) in itself and by this a “guiding principle”²⁷. Therefore, the debate about these criteria is highly relevant. Economization takes ground by the diffusion of performance criteria. This process has to be observed critically: there is often a common utilization of words, whose meaning is unclear or varying with the context of their application²⁸.

3.1.1 New Public Management: efficiency and profit

One of the most “prominent” performance criteria of NPM is “efficiency”. It is taken from private economy and is often transferred un-reflected to the public sector (reform). Willingly or unwillingly it is overseen, that in the context of private enterprises efficiency means “profit”. This is well founded, because any private investment will only be made, if a sufficient return can be expected. In the public sector, however, profit is most often a useless concept. In the public setting, the efficiency criterion means a (comparatively) good relationship between cost and effect (benefit)²⁹ when producing *public goods*. Typically, in the public sector the effects (benefits) cannot be measured in financial terms – making the criterion of *effectiveness or quality*³⁰ a very complicated and demanding prerequisite for any measure of efficiency (Lüder 2002)³¹.

A typical “shortcut” – by ignoring the complication of measuring effectiveness – very often leads to austerity. Cut back results do not automatically say something about efficiency. The suggestion of NPM reformers, to define all public tasks as products, has (expectedly) not resolved this problem – because most of the “products” of public administration are not “sold” to the public; and even if there is some cash transfer: the direct contributions (payments) of the citizens do not completely cover the production costs.

The difference of the interpretation of efficiency as a performance indicator becomes especially relevant at those points where public administration and private business meet: privatization, contracting out and public-private partnership. Public administration asks for efficient problem solving or task fulfillment (in comparison with the existing unsatisfactory

²⁷ A typical example is a personal observation of a conference with a minister of social affairs in Hessen/Germany (2005). He was asked by the audience a couple of times about the substantive policy goals and he always answered by referring to new tools of NPM (benchmarking, decentralization and the like).

²⁸ To pick up just one example: the word „customer-orientation“ is used in the context of NPM and suggests to mean service quality and responsiveness to needs. The definition of private enterprises, however, means to “tap on the ability and the willingness of the customer to spend money” (“Zahlungsbereitschaft abgreifen”). (Manager Magazin 1998, p. 141)

²⁹ The political message, „more services at less cost“, very often is just rhetoric.

³⁰ In these days in Germany scandals about poor food quality are continuously cover stories of the news-paper. However, this would not be surprising at all, if the public had acknowledged the “dangerous” (=life threatening) job of local food-quality controllers (Lebensmittelkontrolleure) – where ever they apply strict controls.

³¹ Examples like „evidence based medicine/medication“ and „demand oriented service“ demonstrate the difficulties and failures.

internal solutions). Private enterprises ask for profit. This problem of interface is well known in almost all societies nowadays. In Germany, the discrepancy between expectations and practice has been criticized very often by the public accounting offices (“Rechnungshöfe” on national and on state level). The following case is quite typical: a privately produced product (like a building) is – at its completion – much more expensive than proposed in the process of contract bargaining. Even strict (public) cost controlling might not be able to keep costs in the defined limits: it might be counteracted by the demand for increasing profit. The public side focuses on effectiveness whereas the private enterprise is mainly interested in collecting the prize³².

Such examples are not new, and they are widely scattered. What has been overseen in the NPM debate is the fact, that the number of “meeting points” between public and private (business) sphere has been growing rapidly with the introduction of NPM reforms. There is broad evidence that this interface – procurement - is a major source of corruption (Gronewold 2005)³³. Even more important – with regard to economization – is the change of attitudes by local politicians and local administrators: many of them see outsourcing mainly as a chance to increase their personal income³⁴.

3.1.2 Lack of reference to the specifics of different policy-fields

Economization is often seen as natural and necessary process – i.e. without escape and alternative: everything in this world has a price and can be traded marketwise (critically: Sandel 2012). This has promoted the belief, that reform practices and performance criteria of NPM can be applied in a universal sense – independent of its policy context as well. This argument is not well founded and, therefore, has lead to critical reactions, which have put the overall idea into question: people found it ridiculous to be addressed as “customers” by the police, by the social worker and by the city planer (etc.) alike. The (non for profit) providers of social services for the poor (on the basis of a contract with government) were disgusted, when they were forced by a German state ministry to generate an “efficiency dividend” on the “back of the poor”. In Germany (and elsewhere) much of the credit for NPM reforms was

³² A “famous” example has been the production of the Euro-Fighter: when it finally was able to fly it was not able to carry any weapons. (Personal correspondence with the national Bundesrechnungshof 2009). Today, the public debate is addressing the railway station in Stuttgart (Stuttgart 21) and the new Berlin airport. Not always but in many cases these are also aspects of corruptive behaviour (in Duisburg the City-Palais, the Mappus-affair in Stuttgart).

³³ This observation has already led to practical reactions – one being the use of IT-based procedures for procurement decisions.

³⁴ Recently I was asked by a concerned citizen, whether it is correct and efficient to have more members of a – not legally prescribed – supervisory board than employees in the public utilities company. These members were all recruited from the local city council.

lost, because of the lack of knowledge and acknowledgement of the specifics of the respective policy fields³⁵.

These observations can be related to the efficiency – profit difference again. In the public sector the guiding principles and performance criteria have to set the effectiveness issue first (before discussing efficiency) – and this might vary widely: it might be the comparatively fair treatment of individual citizens; it might be a question of adequate distribution of services; it might be the fulfillment of an urgent need; it might be the management of unsolvable problems³⁶. And, in addition, the reaction (satisfaction) of the citizens toward public performance cannot be directly and compound “coined” in terms of profit or re-election. The universal use of economic performance criteria even hinders to identify clearly those areas of public tasks, in which these criteria in fact are helpful (i.e. for routine tasks of licensing or money transfers).

3.1.3 Loss of the multiplicity of values/criteria which are governing the performance of public administration

The issue of multiplicity of values and performance criteria reaches far beyond the different meanings of efficiency (versus profit) and its appropriateness for the various policy fields. It indicates the necessity to view public performance in the light of more than just efficiency - i.e. to include also rule of law (legality), accessibility and transparency of procedures; orientation toward collective interests, distributional justice, accountability and sustainability in the decision-making process; empathy, responsiveness and fairness of staff behavior - and others³⁷. In the tradition of German public administration “Rechtmäßigkeit, Zweckmäßigkeit (Effektivität), Wirtschaftlichkeit und Bürgernähe” are the enduring points of reference for adequate administrative performance. It would be quite unrealistic to expect a *simultaneous* and perfect application of all of these values as guiding principles. Sometimes this would mean a “squaring of a circle” – because there may be situational ambivalences or even contradictions within this set of values. Sometimes and/or in some settings (tasks, policy fields) it might be necessary to concentrate on only a few of them – and then re-adjust the others in the next phases of development. Continuous readjustments are a common feature of public administration not only because of ever changing conditions – especially new legally

³⁵ For the field of local health policies and administration see Grunow/Grunow-Lutter (2000).

³⁶ It seems to be quite typical that the unsolvable problems are remaining in the public sector (Seibel 1994); it is not plausible that the (business) sector which is not able to solve these problems should be able to give advice.

³⁷ Although a similar list of criteria was used in the context of the “good governance” principle, de facto capitalistic “marketization” was dominant; democratic participation was not even mentioned. However, this fits quite well with the declaration of the German Chancellor Merkel, that we need a “marktkonforme Demokratie” (2012).

defined tasks – but also because of the fact that most of the public organizations cannot go bankrupt like inefficient business firms.

Therefore, one important difference to the economic sector is the necessary ability of public administration to respond to these different goals – even if only temporarily. The dynamics of globalization might also demand for even more rapid changes in the respective setting of priorities with regard to these values. Nevertheless, public administration must be able to respond to demands from politics and from society. Whereas the economic system is able and might be willing to exclude externalities in their price calculation, public administration is asked to work successfully in a multi-value environment. Economization of public administration thus leads to an inadequate selectivity with regard to values and performance criteria. This undermines the development of a capable and productive public sector and its staff – which might end in the loss of trust in the PAS altogether (legitimation).

3.2 Depending on the market logic of external (economic) counseling

It is a common feature of NPM-reforms that they are accompanied and counseled by management consultants³⁸. This is quite plausible, because those firms are experts with regard to the instruments of NPM. However, there are also critical comments about this development: the counseling is too expensive and not at all cost efficient (because the consultants are not always familiar with the public sector arrangements³⁹; they are not able to help with implementation problems); the consultants just sell their standard products – sometimes the outdated ones, which are not favored in the private economy any more⁴⁰.

This contracting-out of *modernization tasks* (counseling) is another example of the increasing potential for corruption⁴¹. The contracts for consultants are special types of the “sensitive” procurement procedures. They have been detected as examples of corruption so often, because two typical control instruments do not function effectively: If somebody wants to surpass any competition by bidding, he/she can just declare the preferred advisor as “unique” in his/her competence; also the fee can be settled on quite unrealistic levels, because there are no standard-price definitions. Therefore, the political and administrative scandals develop

³⁸ In Germany the public expenses for commercial counseling have been multiplied since the beginning of the NPM projects (Gleis 2006).

³⁹ This is quite a good illustration for the following saying: the consultants are stealing your watch and thereafter let you pay if you ask the time.

⁴⁰ A recent example is contracting out: it is still suggested for the public sector – although private business more and more looks for „in-house“- solutions.

⁴¹ There exist an increasing number of cases in Europe and probably everywhere, in which the contracts for counseling are given to relatives, good friends etc. In Germany, this has lead to scandals and the resign of politicians.

around these two issues: why is advisor X chosen and how can his extraordinary honorarium be justified? (for more details see Rodies 2009).

Similarly important, however, is the fact that with these consultation contracts public administration might become permanently depending on their consultants. Whether it is legal or illegal (part of a corruptive scenario): the advisors cumulate information about the reform processes and might keep them as company secrets – which might make them an indispensable element for the next steps of counseling. This does not only relate to issues of administrative reform but also to substantive policies⁴². The implication is evident: public administration loses parts of its know-how which is necessary to contribute to the policy *making* process – by bringing in a professional and an experience-based view into politically controversial issues.

Another aspect is the dependency on the economic product cycle. Like any other product the reform propositions from the commercial consultants have to be renewed within short periods of time. Whether necessary or not, administrative organizations have to buy the newest version of the products. This is very visible with regard to hardware and software developments in the context of E-government and NPM. Many German cities use SAP-software for their newly installed accounting systems. It does not really meet the expectations of the buyers, but changes of the software packages are too expensive. Therefore, an inefficient adaptation of local administration to business sector standards is quite typical⁴³.

The effect of these processes is not just a choice of sub-optimal solutions for the tasks and problems of public administration. It is also a strategy to blur the distinction between the public and business sector. It alleviates further diffusion of privatization strategies and – at the end – might also open new channels for corruption.

3.3 The reaction of the public

How does the public react to these developments? The analysis of media coverage and surveys of public opinion are typical sources for answering this question. However, there is only little empirical material available. A systematic scientific evaluation of the NPM effects from a citizen's perspective is still missing; the presentation of these issues in the print media

⁴² In Germany a policy reform (in the field of employment) has become a „famous“ example, because it has been given the name of the adviser from Volkswagen AG: “Hartz-Reform”. To make the relevance of this case for our arguments complete, it has to be mentioned that this person later was convicted for his involvement in a corruption affair. The policy still carries his name! But this is only one of the many cases in which lobby groups are directly involved in the formulating of public policies: today this can be observed especially in the financial sector.

⁴³ This argument can be generalized because in spite of steep increase of private for profit counselling in the context of NPM, the proportion of the budget coming from the public sector is still relatively small for the large consulting firms. There is often no sufficient incentive to develop special “reform tools” for the public sector.

has only recently got some attention (Strüngmann 2007). The results can be summarized very briefly.

Available surveys document that the citizens in Germany – in general - show ambivalent reactions to public administration: on one hand they report about positive experiences in the direct contact and service provision; on the other hand they articulate negative opinions about THE public administration in toto. If asked about the negative aspects they mention as well elements of over-bureaucratization (“red tape”, complicated procedures) as of under-bureaucratization (corruption, arbitrariness) (Grunow/Strüngmann 2008). If asked in the *format of an open question* about the association with the term public administration or bureaucracy, *corruption* is the single most often given answer (Allensbach 2007). One of the reasons for the negative image of public administration can be seen in its presentation in the print media. The media transport negative clichés, and report more often in negative than in positive terms about public administration and its performance.

NPM reform has found only little attention and interest in the media as well as in the citizens opinions. The reactions remain ambivalent, because – if changes are observed at all – the experiences include praised reform elements (like Bürgeramt – citizen office) as well as criticized cut back measures (Grunow/Strüngmann 2007). Some practical initiatives on the basis of the new participation rights (“Bürgerentscheid”, i.e. citizen decisions since the mid 1990ies) are taken against contracting out and privatization decisions on the local level. As far as the (partially incomplete) empirical evidence can show, there is neither a sustainable improvement nor a deterioration observed by the citizens following the NPM-reform.

In the long term trend analysis (national and EU surveys), there is also no evidence about a further loss of *trust in public administration*: in the respective scale – since many years – public administration ranks in a middle level – worse than legal institutions, universities, fire workers and police, but better than political institutions (parliament) or market organizations: and - especially – *much* better than political parties (summary: Grunow 2012). The high trust score of the judicial system since a long time might be interpreted as a possible substitute for a belief in non-corruptive public administration: even if the quality of public management is not always sufficient (free of corruption) the courts will do their job effectively – i.e. the offenders will be found and punished.

3.4. Digression: Theoretical frames for reconstructing and influencing the processes of economization

It should not be overseen, that the description of the public debate about economization is also influenced by *theories* underlying some of the basic arguments. Therefore, a short note should

describe the *impact* of two different “cognitive frames”: Rational Choice Theory and (“autopoietic”) System Theory (Luhmann). The focus of the following argument is not the construction of a “theory of NPM-corruption-ties”. This additional step of analysis remains in the “multiple stream model” and looks for “theories/concepts” which function as *bonding agent* in the process of coupling NPM and corruption⁴⁴.

Rational Choice Theory (and game theory) has played an important role in the NPM development and has contributed to a narrow view on public administration and its standards of behavior and performance. On the other hand System Theory offers a complex view a) with regard to the historical development of the public sector in terms of functional differentiation and b) with regard to the interdependency (“structural coupling”) of the political and administrative system with other subsystems of the society (like economy, science/education, law etc.). It can be used to open up a different observers` position with regard to the development (modernization) of the public sector⁴⁵.

3.4.1 Rational Choice (RC)

Basically RC theory consists of analytical models, which try to find out what might (will) happen if some (rational) criteria would be realized in the decision making of individuals (Widmaier 1974; Eriksson 2011). This is a helpful tool for scientific cognitive experiments. It is, however, questionable if it is taken as reality or proposed as a norm for reality and its reform (a detailed account is given by Schirmacher 2013). The premises of the basic model “the rational decision maker – homo oeconomicus” are very strict and often far away from reality: full information about all of the alternatives an individual can choose from; complete transitivity of the priorities attached to these alternative options. Choice among alternatives on this basis is the logic of behavior. The premises of this model have been already questioned and extended by Simon (in the 1950ies) and his notion of “bounded rationality” – which was honored by the Nobel price in economics. Another assumption was also questioned very early: the proposition that the sum of rational individual choices will lead to the best result for the collectivity (Arrows paradox). Social scientists have also argued that the application of this model might be very limited, because the spectrum of individual behavior also includes empathy, altruism and solidarity.

⁴⁴ In this context theories are reconstructed in their (wanted or not wanted) normative effects. In the debate of financial crisis we can observe this phenomenon – whenever corrupt rating agencies are identified or criticism is addressed towards the economic theory as guiding impulse (see again Schirmacher 2013).

⁴⁵ For a short account see Stichweh (2010)

The attempts to include more empirical knowledge into the model made it more complicated and less predictive. The step toward enlarging the scope of the model from individual actors to corporate actors (like public administration “represented” by the top bureaucrat) was not seen as convincing. Another critical reaction to RC concepts was formulated by Game theorists: they criticized the concept of an abstract (i.e. hidden) market based evaluation of the individual decision-making or choices (Scharpf). As an alternative they introduced competing or opposing actors and their influence on successful or unsuccessful decision strategies. Here, again, the discussion developed away from pure theoretical models to empirically based concepts – which were the reason for awarding Selten with the Nobel price for economics: for many months his students have “played” the games.

The new approaches of institution economy (Behrends 2001) are also turning away from the early and simple model and are analyzing the real costs of market related versus contract based strategies. Studies show that the transaction costs for market oriented strategies can be comparatively high and inefficient (profit-reducing). Similarly the concept of contracting out is critically evaluated; the control chances (costs) of a principal vis a vis his agents are analyzed. By turning away from the pure RC concept the analysis, therefore, can contribute to a critical review of NPM practices.

The “survival” of the RC model⁴⁶ – in spite of all kinds of critics and scientific extensions – relies a) on a wide spread pragmatic ignorance of its scientific specifications and b) on its pragmatic but also – somehow - scientifically “assisted” *normative* “turn”. Within the latter, the mismatch of model and reality is taken as the basis for blaming economic and political *practice*. Only if the relevant actors follow the rules of the RC *model* the proposed outcome will be reached⁴⁷. Whereas the majority of the economic scientists will reject such a shortcut, the “normative turn” is a welcome proposition for many practitioners who are looking for simple ideas and convincing ideologies. They make a *belief system* out of RC (or game theory) and consequently also out of NPM concepts. By this they perpetuate the narrow view of this perspective with regard to values and performance criteria. And this in turn reduces the fruitful discussion about the insight of modern theoretical developments for modernization practice⁴⁸. Nevertheless, due to the critical components of the discussion the theory-based observation in terms of RC can help to understand chances and failures of NPM-reforms.

⁴⁶ A reconstruction of the history of the argumentation in economic theory and the many failed tests of RC propositions is given in the dissertation of Köller (2012).

⁴⁷ This conviction and/or strategy might have been impaired by the experiences with the latest financial crisis.

⁴⁸ The analysis of Schirmacher (2013) goes far beyond these arguments. He describes the roles taken up by mathematicians and computer experts by programming the international finance market and the www on the basis of a strictly egoistic (non-cooperative game theoretic) model of human decision making.

3.4.2 System Theory

System theory has many origins, sources and versions. They cannot be described here. The following discussion concentrates on the “autopoietic” version of this theory, as it was developed by Niklas Luhmann (1997, 2002). System theory is a universal theory which allows for an analysis of different levels and all segments of society. It focuses its observations on (social) communication. Systems are areas of dense communication which are separated from its environment by a system border. In the process of *societal* evolution different types of *subsystems* emerged. They have organized their communication in different ways – in order to fulfill their functions effectively.

It is an important contribution of this theory that it invites us to observe different types of systems, their various functions and their multiple forms of functioning. One type of variation relates to the scope of communication systems: the simple social system = communication on the basis of personal presence; organizational social systems = systems which are specialized on decisions and which coordinate their communication basically by membership roles; societal subsystems which fulfill specialized functions for society and use specific media and codes. The system of world society includes all communicators which can be reached by any communication – a system that is much more empirically observable since the existence of the internet.

“Autopoietic” social systems can only do what they can do; they are closed in terms of internal operations (communication). At the same time the systems are open for irritations from the environment; sometimes they are even structurally coupled with aspects of their environment. Systems can observe the environment and its reactions following the operations of the system. Nevertheless, systems are tied to the basis of their operations. Societal subsystems exist because their specific operations contribute to the functioning of other subsystems as well as of society as a whole – when dealing with complexity and contingencies (dynamics) of globalization.

The societal subsystems are of special interest for our topic. They are seen as the result of a functional differentiation during long term societal developments. The primary focus on functional analysis implies that functions⁴⁹ have (more or less universally) been developed, but structures are varying and therefore constitute *functional equivalents* – i.e. different

⁴⁹ These functions can be connected with human demands for survival (food, water, shelter, security etc.) and/or with (secondary group or society related) arrangements, which are able to fulfil these functions for a large number of people.

structures which can alternatively fulfill the same (specified) tasks. A fusion of too many functions – like in the soviet state system - will lead to an insufficient functional performance. The strength of functional differentiation rests in the system-specific observation of the communication in the environment and the specific (internal) reaction of systems to them. With other words, they have a specific “antenna” for the scanning of their environment.

In this theoretical context the PAS and the economy are different subsystems with different functions, media and codes; the economy: function = supply of society with privately purchased and used goods and services; medium = money; code = payment – no payment. The PAS: function = setting of priorities for collective values/goals and the preparation and/or enforcing of binding decisions; medium = power and law; code = power (political majority) – no power (political opposition); legal – illegal action.

Another important proposition of system theory is that functional subsystems do not have inherent stop-rules; they always want to extent the scope of their operations: government expands its domains and jurisdictions; economy looks for more market arrangements, products, customers and profit; science asked for more research (money) to extend its knowledge. The restrictions have to come from other subsystems: the PAS is restricted by the limitation of money (drawn from economy by taxes etc.); the economy is restricted by political priorities and public policies (laws and regulations enforced by administrative directives and control); science is restricted by limited resources and ethical codes.

It is not difficult to understand what happens if the functional differentiation does not work: the lack of specialization of subsystems leads to poor performance with regard to the different functions/tasks – as it has been observed in the state economy of the earlier Soviet Union or in East Germany. But the same is true - if an economic system is dominating the PAS as in some policy fields (i.e. environmental protection, social aid) like in the US or in some regions in China, where public/political rules are ignored by businessmen, administrators and party members on behalf of personal profit and wealth.

This theoretical reconstruction also offers an interpretation for the observation, that public-private partnership is a complicated, often unsuccessful model: not just two organizations are tied together: it is – at least indirectly - a coupling of two different functional subsystems; likewise for the observation of the transfer of tools from the private business (like in the NPM context) to the public sector: it is only of limited value for public administration. The organizations of the public sector have to fulfill quite different functions than private enterprises: to use the same word in both sectors (i.e. city = holding) does not help much. The public sector organizations have to be able to take decisions with regard to different values,

preferences, and steering principles (hierarchy, majority decision, bargaining etc.) at the same time – even if they are changing rapidly. “Changing the wheels while driving at full speed” is another common description of this in Germany: public institutions cannot be closed down easily – because there is no substitute for them like in the car industry – if a company has collapsed. All of this does not imply that the functional subsystems cannot arrange successful mutual transfers of organization principles or management tools. But it has to be expected and accepted that very often this is not practical, and that a successful “one to one” transfer often is impossible. All of this throws some light on the issues and empirical case studies which have been described above. The same is even more important for a general transfer of specific functions: should the army (security function) be a part of the economic system?; should the public administration produce bicycles (provision of private goods)?; what about the conflicting situation of research in a pharmaceutical company⁵⁰. There are only few tasks in which the integration of a function in one or another societal subsystem has both been proven likewise successful (effective).⁵¹

3.4.3 Theory – Economization – Cutback/NPM – Corruption

The brief description of the two theoretical perspectives has put them into the “*stream of economization processes*”. In this context, RC has acquired a promoting role – especially in cases of its strict *normative* application: it contributes to the diffusion of economic terminology and maximizing (profit-oriented) performance criteria or even the expansion of greed in modern societies. System theory is too complex for a normative simplification; it can be used as a tool for the reconstruction of modernization processes. Thereby, it is able to analyze the interdependencies of the economic and the public (PAS) subsystem in society. The general debate about this topic is well developed⁵². There are still some additional steps of research necessary if the explanatory power of the theories should be made fully applicable to the questions raised in this paper. Such a task goes far beyond the scope of this paper – especially if the target of explanation is not the “economization stream”, but the development of ties between NPM and corruption *within* this “stream”. At least a general expectation can be derived from the brief description: system theory will offer more explanatory options because it is able to analyze individual decisions, organizational procedures and subsystem

⁵⁰ Today there is proven evidence that the companies hide results they have found during the process of testing their drugs.

⁵¹ Often a continuous cycle of market failure and state failure could be the result – or just a partial doubling of functions in two subsystems (like private schools besides public schools).

⁵² To mention just a few contributions in the German debate: Richter 2009; Krönig 2011; Nassehi 2011; Teubner 2012.

boundaries in a comprehensive terminology. It should also be better prepared to deal with the three types of corruptive behavior: situational, network-based and systemic.

4. Summary of the arguments and reflections on the international (comparative) dimension of NPM as accelerator of corruption practices.

4.1 Summary

This paper has started with data about corruption in the public administration of Germany. They ask for an explanation, because they show a steep increase of documented (prosecuted) corruption cases – which are estimated to cover not more than ¼ of the de facto cases. There is no specific profile of offenders with regard to the relevant formal and informal norms of behaviour. But there is remarkable increase of structured or network based corruption: a number of settings might set the frame and ease for mutual beneficiary corruptive practices: decisions which effect citizens/customers positively or negatively (contracts; transfer payments; tax collection giving licences etc.). In such cases influences on the direction of the decision are of interest and of value. The importance of the settings is enlarged if they are embedded into cut back strategies and an enduring shift of public values. Altogether, these elements also seem to set up a background for the development of long term systemic corruption networks. These observation have led us to focus on the time related coincidence and possibly causal interdependency with the development of NPM-reform in the public sector.

The “official” reactions to this development clearly concentrate on organizational arrangements (back to control processes; job rotation; re-installing the four-eye-principle; installing authorized agents for corruption; supporting and protecting “whistle-blowers”). These recently established anti-corruption strategies can be described as the attempt to reduce the number of settings which ease corruption. Thereby, they are also a kind of proof of the proposed explanation of the steep increase of observed cases. The reaction (anti-corruption measures), therefore, can likewise be described as a renunciation of NPM tools and an attempt to keep or somehow even re-establish some of the traditional Weberian features of bureaucracy. It is still open whether this is an effective way to reduce corruption again.

A second argument, therefore, has concentrated on the spread of the neo-liberal “belief system” inherent in or at least supported by the (international) NPM movement. The fight against corruption also includes seminars which inform about risks and new rules (and sanctions). But it is questionable whether these seminars are able to limit the diffusion of the

orientations transported by NPM – even in the recent phase of the international financial crisis. The “new” orientations are still identified in surveys of staff members (in general and especially in the PPP-structures). Part of this change of orientations is the “transfer” of the terminology, values and goals of the capitalistic or even a greed based economy⁵³ to the public sector and especially to the (local) public administration. One of the recent shifts of modernization strategies has gone into the direction of “open government” – by enlarging the scope of transparency with regard to administrative decision making: This also refers to some risks of corruptive developments in the process of NPM implementation (like procurement; counselling contracts etc.)

Altogether, the three factors – application of NPM tools, pressure toward cut-back decisions, spread of the terminology and ideology of economization – constitute a setting (“streams”) which can be seen as a propulsion for corruption in German public administration. As far as the limited data can show, this development has not yet any remarkable impact on the trust of the population in the functioning of the German public administration and the legitimating beliefs concerning the PAS in general. The public somehow shares the background “belief system” of NPM⁵⁴ and is not well informed about the steep increase of corruption. There is evidence, that the population sees cases of corruption as persisting – but not more or less critical than 15 years ago. New, however, are recent instances of protest (and citizen request) against contracting out and privatization on the local level. But this is mainly connected with a critical view about the blurring of the public/private for profit distinction and the ineffectiveness of services which are delivered by private companies – and not specially referring to corruption issues.

The argumentation of the paper has not been based on systematic research (data collection) on the relationship between Corruption, NPM reforms and additional context factors. It has just collected information from various sources – which are supposed to give some insight into this relationship. In this sense – as it has been indicated at the very beginning – the arguments can as well be read as hypotheses – which need more specific data-support. Therefore, it is an

⁵³One of the extreme (but still “illuminating”) example stems from the early phases of re-uniting Germany: newly established East German welfare offices refused to pay social aid – with the argument, that “we are now living in a capitalistic system”: the poor should ask for a loan from the bank before asking for money from public welfare offices. Meanwhile, the welfare offices had taken the welfare grants to the bank to earn maximum interest.

It is quite illuminating that in these days the Swiss population has voted for a limitation of the “greed feeding” system of salaries for top managers.

⁵⁴Among politicians this is well known and used in public speeches: proposition of de-bureaucratization, de-regulating, slimming the state etc. always “earn” comprehensive and unitary agreement and support. (personal communication with former minister Wolfgang Clement 2009).

invitation to observe the development of corruption in Germany - with regard to the role NPM and its context might be playing.

In addition a suggestion has been made how to include theoretical perspectives into any more detailed analysis: RC explains the logic of the NPM-concepts and – in its “normative turn” the boosting of the ideological basis; system theory can help to understand the implications and complications of state-economy interaction; multiple stream analysis helps to understand the co-development of NPM modernization and corruption in the public sector – by referring to problem streams (fiscal stress), policy streams (NPM), the politics stream (lobbyist as authors of law-texts) and windows of opportunity for specific orientations and behaviour.

4.2 Any lessons to be learnt from the German case?

Can any of the conclusions from the German case be transferred to other (types of) countries or political-administrative systems? Firstly, the “conclusions” from the German case are still very preliminary. And secondly, the observation of “embeddings” (context-dependencies) in general does not seem to support such an idea of “transfer”: not only varies the context, the interpretation and the application of NPM standards but also the meaning of corruption. Therefore, the following arguments are just *cautious propositions* for a review and discussion of other (types of) cases. However, it can be argued, that such a discussion is necessary: although the “high season” of prescriptions from NPM seems to be over, the concept and the tools are still being transported in many countries outside the OECD-context.

In a first step we should focus our observations on similar cases: The comparison of the context in various OECD/EU countries (Pollitt and Bouckaert 2000) show, that almost all of the countries have an elaborated system of rule of law and a kind of Weberian public administration (Tumalla 2001). But there are still enough variations (and even exceptions like Greece) – i.e. continental Europe, southern Europe, northern Europe, Anglo-Saxon countries – to find different versions and degrees of NPM implementation - if any at all. They are symbolized by the “4 m’s”: maintain (f.e. Germany), modernize (f.e. Sweden), marketize (f.e. US) and minimize (f.e. UK). But there are overlapping specifications and similarities as well. Whether NPM has an impact on the realities and perception of corruption in these countries is not systematically elaborated (yet) in the existing comparative work. It can be expected, though, that “marketize” and “minimize” models should be more “open” for corruptive practices (see the analysis of Neild again). Any impact is a matter of path dependencies in administrative reform processes *and* of the “traditions” of corruption in these countries – additional indicators concerning the context of NPM – practices have to be taken into account.

If such a list of indicators includes key elements of the PAS in general it should be possible to characterize any country and to draw some conclusions about the NPM-corruption link.

Taken from the analysis of the German case, at least four questions should be raised: 1. What is the status and performance quality of public administration - as part of state capacities - in the respective country? 2. Does a high pressure in terms of cost-reduction (austerity politics) exist in this country? 3. What kind of “general tradition” does corruption have in the respective country? 4. How deeply are the ideas of economizing (neo-liberal ideology) anchored in the public and in the state/public administration?

By looking at these distinct questions a review of cases must not be restricted to OECD-countries⁵⁵ but can also be applied to countries in quite different phases of development and with quite different political and administrative architectures. Whether the existing classifications of countries – by separating EU, OECD, Transformation States, Transition States, Developing States, Failing States, Failed States etc. – are helpful for sorting, comparing and generalization the cases with regard to the “NPM-corruption-link” is an open question and could as well be a topic for discussion⁵⁶ and further analysis.

In the concluding part of my paper I will just use a few single (!) issues and indicators for a kind of *exploratory reflection*. This “short cut approach” discusses the question, how PAS-features and their context - which are quite different from the German and many OECD cases - might influence the issues under discussion (NPM and corruption). These cases often have a comparably high level of corruption as a starting situation for any administrative reform. How does NPM interfere into such a situation?

A. *The first feature refers to the architecture and performance of public administration:*

With this issue we can refer back to the analysis of Neild and to the more general propositions of Luhmann. The German case was described as a relatively well functioning Weberian bureaucracy – somehow a “clean” administration. As described in this paper, in such a situation increasing corruption can as well stem from a reduction of preventive principles as from new modes of organizing public tasks. Both effects can be connected with NPM principles.

⁵⁵ They offer good examples, though. The “€crisis” has brought many cases to the light and to the awareness of the European public.

⁵⁶ For me, the usability of state-typologies seems to be doubtful – unless the list of criteria, which is used for the typology of states, includes (context) dimensions such as rule of law(?), legally defined role of citizens (?), stable and semi-autonomous and de-concentrated public administration (?), professionally trained staff (?), workload oriented distribution of financial resources (?) (etc). Only if a list of criteria is used for the state classifications, such a typology can function as a relevant starting point or even as an explanatory impulse for the analysis of administrative reform, NPM and corruption.

What can be said about the implications of an architecture which *misses* a few or most of the Weberian features of public bureaucracies? What can be expected from an unstable and disorganized public administration, without a strict rule of law in public affairs, in which the staff members are not trained well and are insufficiently paid for their jobs? Does NPM offer a relevant reform agenda? My *suggestion* for an answer is: *partially* with regard to internal modernization; and *rather not* with regard to contracting-out/marketization. Internal modernization according to NPM principles addresses “over-bureaucratization” – by means of deregulation, more decision making competence to lower levels, less control (often in conjunction with cut back of resources). In such a situation NPM reforms can presumably lead to a deterioration of the situation in many cases. However, the NPM toolbox also includes tools which support effective action and its control (like training and performance evaluation of staff members; benchmarking of service organizations and the like). There is an overlap with Weber’s concept of bureaucracy - because most of the private for profit organizations include features of bureaucracy. In those cases – presumably with only moderate cut-back demands – NPM tools of “Binnenmodernisierung” can help improve the performance quality and perhaps even a reduction of corruption (“a bit more clean administration”).

Privatization and marketization as distinct NPM features might be attractive for countries with still high involvement of the state in genuine economic production processes⁵⁷. Here, marketization means complete privatization of the production of goods and (public?) services, i.e. putting production and delivery processes under the pressure of market competition – if there is any. The applicability of NPM strategies is the more effective the more the goods and services are conforming with the characteristics of “private goods” – i.e. individually chosen and fully paid for by the customers. However, this process of privatization might be accompanied by additional corruptive behaviour – i.e. company capture by public officials. Therefore, this line of development might be ambivalent, and it might need strong flanking measures of corruption prevention.

If there are already very slim public structures and overall small state capacities the modernization effect of NPM (privatization and marketization) is low: it might contribute to a further hollowing out of the state (“state capture”). This issue again relates to the question of an effective functional differentiation between the economic

⁵⁷ In terms of system theory this situation can be described as insufficient functional differentiation on the societal level – which can be changed with some instruments of NPM (marketization).

subsystem and the PAS; those elements of NPM could be given priority, which support the building of (“clean”) state/administrative capacity (internal modernization). *For an example (Ghana) see Appendix 4.*

- B. *The second feature refers to “traditions” of corruption.* Thereby, we could look at the detailed statistics presented by OECD, by World Bank - or by Transparency International. Again, a short cut is used with regard to this issue – by differentiating only between corruption as a feature of a political/administrative – or even of the societal - *system* and corruption as *individual deviations* from legal norms and social expectations. The latter fits partially to the German case, has been covered already before and will not be taken up again.

One of the issues under discussion about *systemic* corruption refers to the macro-architecture of the PAS – especially with regard to centralization or decentralization. Corruption in centralized systems seems to be “protected” more easily against outside control or intervention. A decentralized PAS, on the other hand, has multiple corruption centres – which altogether might not be as hermetic closed up as a centralized system. But they are more difficult to control from inside. The possibilities are depending on the role of the citizens /customers and their critical observation. If they are socialized widely in a corruptive system, such a critical role might not be taken seriously (*see Appendix 5 for examples from Philippines and Indonesia*). Nevertheless, anti-corruption initiatives can be successful if they use the format of local examples of good practice.

Altogether, the question still remains unanswered, whether the macro architecture really makes a difference in a PAS which suffers from systemic corruption.

Another important argument concerns the inclusion of other segments (functional subsystems) of a society and/or in the everyday behaviour of the population. Nowadays, Greece is an example, in which these conditions prevail. One of the arguments put forward to explain this situation (Biedenkopf 2012) is “weak state capacity and no trust in government by the population”. By using system theoretic arguments – here relating to Latin America (Neves 2012, pp. 24-26) – it also can be argued, that systemic corruption prevails because there is no sufficient functional differentiation – leaving hierarchy (dominance of family relationships) and regional clan networks as traditional modes of differentiation on the first ranks.

In such a context the question for discussion of NPM effects has to be re-formulated: what kind of appeal and impact can NPM have in such a pervasive corruptive system? Would it be an additional stabilizer for corruption or rather a critical component? Systemic corruptive systems tend to be inefficient⁵⁸, because there are so many extra payments to be made and because these systems undermine any control of quality, costs and effectiveness. NPM tools – like accounting systems, benchmarking, good practice orientation – could be used to limit system deficiencies. By taking these actions, even some features of a Weberian bureaucracy might be (re)introduced into a corrupted profit oriented system. But who would support such a change in a corrupt system – except some external actors (like World Bank or EU-commission)? Systemic corruption most likely will have to be attacked in a comprehensive - systemic - way. And where should one start to “clean” the complete system of corruption⁵⁹, or even the society in toto? One possible answer depends on the self-defeating tendencies in corruptive systems: do the practices undermine the chances for further gains out of this system? This is possible, because every system has – especially in modern times – some kind of system environment, which might be able to put up stop signals. If the mafia is taking too much money for protective charges from a business, the latter may crash – because it is tied into (eventually international) economic transactions which do not follow the corruptive system rules⁶⁰.

However, it is not very likely that NPM will be used to stop the seamless growth of a corruptive system, because this would be a risky adventure for NPM protagonists. In addition, if the NPM impulses are accompanied by the economization ideology it is not very probably that NPM will be used as a self-restricting strategy. The application of NPM features will probably only be used on a rhetorical level or for symbolic functions – i.e. on behalf of external donors.

This very brief reflection brings us back to the question of architecture: it might well be that the only way out of these deadlocks is a separation of power and a territorial and functional differentiation of state architecture as well as the introduction of principles of a Weberian public administration. This has to be supported or pushed by

⁵⁸ In a personal communication with experts from the countries I learnt, that tax collection in China might not reach more than 50% of the entitlements; in Indonesia the rate is not much more than 30%. As we have learnt during the last years: Greece is not very different: Until today the citizens owe their fiscal state more than 80 billion €

⁵⁹ A recent report (Weltspiegel 6.3.2013) about the new Chinese President Xi has expressed it quite well: it is like a surgery of a doctor at his own body:...“Wenn er gegen die korruptesten Kader vorgeht, dann muss er die Organe entfernen, die gleichzeitig lebensnotwendig für das Gesamtsystem sind“.

⁶⁰ It would be worth while to observe the consequences of the recent crash of a textile production centre in Bangladesh – with hundreds of dead workers.

the citizens and by the modern media (internet). Such an approach might be judged as very unrealistic if one looks at respective countries but there is not much hope, that NPM initiatives could become an effective anti-corruption strategy. It does not help to built up functioning state capacities because it has the tendency to blur the state-economy difference. This might – at the end - mainly endorse the buyout of the respective countries by transnational business corporations.

C. *The third feature refers to the adoption of ideas of economization and neo-liberal ideology.* Although the diffusion of such ideas into all areas of society seems to be a trend worldwide, there are still differences of scope and intensity to be acknowledged – for example by looking at the US-EU comparison or at the Islamic world. Let us just use three topics for illustration: the idea of “rule of seamless greed/profit”; the idea of “the winner gets it all” – which includes “don`t look after the losers”, and the idea of “accepted/favoured in-equality”. In a country in which these orientations are widespread among the political and administrative elite and anchored in the general population the adoption of NPM standards for the reform of public administration is expected to be supported: deregulation, privatization, benchmarking, creaming “best” practices and selected groups of clients are those typical NPM instruments which would conform with such ideas. Whether this opens new ways of corruption depends on the existence of a leftover of restrictions and control still prevailing in the PAS⁶¹. If a stage is reached, in which an achieved goal (profit or austerity) legitimises any instruments, procedures or tricks a specification of corruption seems to be useless: anything goes. There is no incentive to define and fight corruption – unless it is seen as too costly for market processes (i.e. transaction costs). However, it cannot be expected, that the PAS would be able to function as a controlling agency in such a situation: An economy which is overwhelmed by organized crime will most likely accelerate state failure.

Coming back to the relationship between ideas and ideologies of economization and the diffusion of NPM in the public sector a mutual reinforcement can be expected. This trend might only be limited, however, if various policy fields have been functionally differentiated and are backed up by specific administrative bodies, groups

⁶¹ It would be interesting to look into the latest case of fraud in the British Parliament (bill of expenses); the media reports indicate “unbelievable” dimensions – which might end in a high suicide rate in the next months. (WAZ 25.5.2009)

of supporters and veto players⁶². They might be able to filter impulses of economization ideology and NPM tools with regard to the specific circumstances of policy fields (like health, security, environmental protection, education etc.): not every NPM tool is feasible for all policy fields. Whether these policy fields are susceptible for corruption in different degrees is an important question which has still to be analysed case oriented and in detail⁶³.

The three points of discussion rather have raised questions instead of giving answers. This might somehow be the consequence of a lack of necessary data. But, in addition, it also supports the impression, that generalized conclusions are not possible: they rather remain depending on case characteristics and a specific phase of PAS development, which are under observation. Therefore, data from international statistics and their “correlation” – for example: corruption level and economic growth – should be handled with scepticism. The same is true if NPM “therapy” is offered or even imposed by international organizations: sometimes it might be helpful on the way to establish a “clean” and productive public administration, but more often it will make the corruption scenery in the respective countries even worse.

5. Conclusion

Even a “Neo-Weberian”, i.e. still partly anti-bureaucratic public administration includes elements of preventing corruption. Or, in reversing the argument, we can observe that some of the anti-corruption campaigns aim at a recovery of some omitted (bureaucratic) features. That does not mean that other - for the public sector rather new - elements of the NPM toolbox are not applicable or even necessary. Somehow, the German case could be called an “*intelligent compliance and non-compliance*⁶⁴” towards the demands of NPM reform. This might even be used as a generalized recommendation with regard to NPM-suggestions. This should imply a necessary awareness of some *inherent corruption risks* – especially if NPM is embedded in large scale cutback practices and in an uncritical economization ideology. The NPM discussion is still “blind on this eye” – although without this reference the steep increase of cases of corruption - in Germany and possibly elsewhere - could not be sufficiently explained. In addition, for limiting the NPM-corruption-link the solution must not always be sought in

⁶² However, lobbying might counteract any of these activities – often with much more money in the background.

⁶³ Following the observations in Germany it is more likely, that some formats (high public investments; procurement) are susceptible in all policy fields; if these are disproportional numerous in a specific policy field this might make this policy field more corruptive. (see the health care system in Germany as a recent example)

⁶⁴ “Intelligent” has a double meaning: one type of non-compliance might result from a detailed diagnosis of reform demands; the other type results from general considerations about the feasible number of elements which can be changed simultaneously – with success.

re-establishing old principles (like the four eye principle); alternatively a search for new types of decision making procedures which can surpass corruptive energy and action – i.e. by using modern information technology – might be preferable. It should not be ignored, however, that these anti-corruption activities *are based on a considerably well functioning public administration (bureaucracy)* – in the context of a division of power, the rule of law and responsiveness vis a vis other segments of society.

The German case has been described as scattered corruption according to the existence of specific enabling settings, in which the potential partners know each other for a while (personal networks). There is still some potential of restricting corruption with the help of specific instruments. The overall cost/benefit relation of corruption for the country is seen as negative. There is not yet an elaborated or endemic system of corruption in Germany – although latest observations and debates about evasion of taxes might indicate a trend towards such a status.

In a PAS with endemic/systemic corruption (like mafia structures) corruptive incidences are difficult to observe and to reduce – even if the cost for being trapped is high – as the example of the earlier mayor of Shanghai has demonstrated. With other words: in countries *without* stable and professional administrative structures and/or corruption as systemic feature and/or a strong adherence of elite groups to economization ideology the application of NPM in the public administration runs much higher risks to “fertilize” corruption than in Germany or comparable OECD-countries. NPM without a Weberian bureaucracy as underlying structure can be expected to be a much stronger multiplier of corruption practices than in Germany. NPM in conjunction with the economizing of the public sector will strengthen and not restrict corruption in countries with a “tradition” in systemic corruption⁶⁵. It cannot be expected that the judicial system (if there is an independent one) can enforce stop rules for corruption; the best prevention is still a functional separated public sector with a well organized public administration – which follows “clean” rules of conduct, including a set of non-economic performance indicators. This should be endorsed by an alert public and freely investigating and reporting media – while including the possibilities of the internet.

⁶⁵ One of few exceptions can be expected in cases of privatization of industries, which have to face (international) competition: here NPM can install some basic reliable procedures of market related management.

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Appendix 1

Bezogen auf die Entwicklung im Bereich ausgewählter Strafnormen im Phänomenbereich Korruption ergibt sich für das Jahr 2011 folgendes Bild: Straftat	2011	2010	+/-	Tendenz
§ 299 StGB - Bestechung/Bestechlichkeit im geschäftlichen Verkehr	25.364	7.511	+ 17.853	↑
§ 334 StGB – Bestechung	5.363	797	+ 4.566	↑
§ 335 StGB - bes. schw. Fall der Bestechung/Bestechlichkeit	5.268	5.086	+ 182	↗
§ 332 StGB – Bestechlichkeit	5.219	693	+ 4.526	↑
§ 300 StGB - bes. schw. Fall der Bestechung/Bestechlichkeit im geschäftlichen Verkehr	3.911	542	+ 3.369	↑
§ 331 StGB - Vorteilsannahme	863	585	+ 278	↗
§ 333 StGB - Vorteilsgewährung	798	465	+ 333	↗
§ 108e StGB - Abgeordnetenbestechung	9	2	+ 7	↗
§ 108b StGB - Wählerbestechung	0	1	- 1	↓

Quelle: BKA 2011, p. 9

Appendix 2

„Der von THATCHER begonnene Umbau der britischen Verwaltung mit dem Ziel, in sie Methoden der (Privat)Wirtschaft einzuführen, hat die Tendenz zu einer saubereren Verwaltung ebenso geschwächt, wie die zunehmende Einschaltung von „Außenseitern“, die kurzfristige Verpflichtung von Fachleuten aus der Wirtschaft oder die „Auslagerung“ genuiner Staatsaufgaben in privatwirtschaftlich organisierte Unternehmen. Alle diese Maßnahmen gefährden die Substanz einer sauberen Verwaltung, was keineswegs nur für Großbritannien, sondern auch für Deutschland gilt. Alles zusammengenommen gilt: „On any view, the civil service should be seen not solely the property of the government of the day but as a national asset“ (ebda; 188).

NEILD analysiert für Großbritannien sechs Faktoren:

- Bestechung der Abgeordneten;
- Parteienfinanzierung;
- Verkauf von Auszeichnungen und Titeln (Honours);
- Waffenhandel;
- Patronage im Öffentlichen Bereich;
- Verhalten der Minister gegenüber ihren Beamten

und kommt zu dem ernüchternden Ergebnis: „standards of behaviour, after sliding from the wartime peak, tumbled towards the end of the century. Under the ... headings - the pursuit of private interests by public servants and contracting out - opportunities for corruption have been greatly increased with consequences we cannot yet see. In short, the evidence against politicians is pretty damning; as yet there is little evidence against civil servants“ (ebda; 197).

Die für die Unterdrückung der „public corruption“ erforderlichen Instrumente sind alle bekannt: gute Besoldung von Militär, Polizei und Öffentlicher Verwaltung; Auswahl nach Leistung; ein unabhängiges Rechtswesen; Gesetze und Verordnungen, die Korruption verhindern oder zumindest nicht fördern; gute Überprüfungssysteme und eine freie Presse, die nicht daran gehindert wird, über Korruption der sog. Entscheidungsträger zu berichten. Aber das ist nur ein Teil der Geschichte, denn es muss auch der soziale Wille bestehen, die Verfehlungen als solche zu erkennen und zu verfolgen, wobei die juristische Aufarbeitung allein nicht viel bewirkt, wenn die sozialen Sanktionen fehlen.

Wenn „saubere“ Regierung zu einer höheren Effizienz der so geführten Staaten geführt hat, ist es sehr wahrscheinlich, dass sie erfolgreicher als ihre Nachbarstaaten waren und dadurch auf diese einen Evolutionsdruck in Richtung saubere Regierung ausgeübt haben. NEILDS Ziel war es „to draw attention to this phenomenon in the study of why corruption was suppressed and, secondly, to point up that it was the product of military technology and social conditions of the time“ (ebda; 205). Diese Bedingungen existieren seit einigen Jahren in Europa nicht mehr, die Aufgaben des Staates haben sich verändert und die militärische Bedrohung durch Nachbarn ist - zumindest momentan - auch verschwunden, weswegen sich das gesamte Normensystem in Europa verändert hat. Zu den sozialen Kräften, die die Flut der Korruption in den letzten Jahren haben ansteigen lassen, zählen nach NEILD die Durchsetzung der Marktwirtschaft und die damit einhergehende Kritik an „big government“, die beide mit einem Anwachsen der Bedeutung der Verfolgung privater Ziele im Gegensatz zu öffentlichen einhergehen.“ (Schweitzer 2009, Abschnitt 2.3.4.).

Appendix 3

„In diesem Sinne stehen in dieser Arbeit die negativen Auswirkungen von Reformstrategien auf die Korruptionsanfälligkeit und das Korruptionsverhalten im Zentrum des Erkenntnisinteresses. Dabei geht es nicht um eine einseitige und mit Vorurteilen belastete Analyse dieses Verhältnisses, sondern um die Aufarbeitung des derzeitigen Erkenntnisstandes, die Erklärung einer solchen Wechselbeziehung zwischen Reform und Korruption und die Ausarbeitung von praxisorientierten Analyse- und Lösungsstrategien. Die in zahlreichen Arbeiten geführte Diskussion über Ethikwandel, Werteeosion und Verhaltenskodizes dominiert die aktuelle NPM-orientierte Korruptionsdebatte. Diese zum Teil einseitige Ausrichtung wird der Komplexität des Korruptionsproblems jedoch nicht gerecht (Hondeghe 1998). Wichtige Erklärungszusammenhänge geraten in den Hintergrund und verzerren das Gesamtbild der Korruptionsursachen. Betrachtet man die Literatur genauer, stellt man fest, dass die Debatte über NPM und Korruption wesentlich heterogener geführt wird als allgemein wahrgenommen. Diese Arbeit versucht dieser Heterogenität gerecht zu werden. Zunehmend werden die sozialpsychologischen Faktoren Unsicherheit, Unzufriedenheit, Entfremdung und Überforderung als Korruptionsmotivation in der NPM-orientierten Korruptionsforschung diskutiert. Ein weiterer Aspekt betrifft die wachsende Bedeutung von Wettbewerb bei der öffentlichen Auftragsvergabe im Rahmen von Gewährleistungsmodellen. In diesem Zusammenhang ist auch die neue Rolle von Agenturen sowie von privaten, öffentlichen und gemeinnützigen Trägern in der Leistungsbereitstellung zu sehen. Welche Bedeutung ist dem Verhältnis von Dezentralisierung und neuen Steuerungs-

und Kontrollmechanismen in der Korruptionsdebatte einzuräumen? Gibt es Hinweise für ein Kontrolldefizit? Diese einführenden Anmerkungen zeigen bereits, dass sich die Korruptionsproblematik nicht auf eine Ethikdebatte beschränken darf, sondern diese Faktoren in einem Erklärungszusammenhang zu verstehen sind. Eine einseitig auf Ethikprobleme ausgerichtete Ursachenforschung führt leicht zu den falschen Schlüssen bei der Entwicklung entsprechender Antikorruptionsmaßnahmen. Trotz dieser Heterogenität lässt sich ein logischer Zusammenhang zwischen diesen Einzelaspekten erkennen, dem in dieser Arbeit mit der Entwicklung eines ganzheitlichen Erklärungsmodells Rechnung getragen wird. Dieses Modell wird sich auf drei 'Erklärungssäulen' stützen: Korruptionsmotivation, Korruptionsmöglichkeit und Möglichkeit zur Unterminierung der Kontrolle. Aufbauend auf der systematischen Darstellung des Erkenntnisstandes, wird diese Arbeit einen Beitrag zur Erklärung dieses Phänomens leisten. Das derzeitige Forschungsdefizit an empirischen Fallstudien erfordert die Übertragung der bestehenden Erkenntnisse in ein anwendungsbezogenes Erklärungsmodell für reformbegünstigte Korruption. Aus theoretischer Sicht ist die gemeinsame Analyse von Akteursverhalten und institutionellen Faktoren im Hinblick auf den Zusammenhang von Reformstrategie und korrupten Akteursverhalten aufschlussreich (Scharpf 2000). Reformen verändern nicht nur Organisationsstrukturen, sondern wirken sich auch auf die Institution als solche, die Organisationskultur und die Wahrnehmung der Akteure aus, was wiederum Rückschlüsse auf das Akteurs- und somit das Korruptionsverhalten ermöglicht.“ (Abstract der Studie von Maravic 2003)

Appendix 4

An example from Ghana⁶⁶:

“Having enumerated the rationale of the NPM reforms, it is ideally supposed to curtail the apparent bureaucratic pathologies and the cancer of corruption that faced the PAS of Ghana. As mentioned in the study, the policy recommendations under SAP have helped restructure the economic, political and administrative sectors of Ghana. There has been considerable reduction in state orthodoxy through market principles such as PPP, contracting out and outsourcing. These competitive approaches have more or less improved effectiveness in public service delivery with the infusion of the private sector. The economic and efficiency gains with particular reference to privatization cannot go without mention. These achievements are well commendable in the light of solving some of the challenges that existed before the reforms. However, the dysfunctional consequences as a result of organizational and implementation failure of the reforms clearly shows that, the NPM have as well fostered incentives, opportunities and possibilities of corruption in the public sphere of Ghana.

To begin with, the motivation of corruption within the NPM reforms in Ghana stems from the political circus and administrators alike. Politicians have used the reforms to maintain and expand their support base, by distributing rents to party loyalists and their favourites. To retain patronage networks, offshoots of private enterprises emerge from the political incumbents to take charge of the transfer of service provision. This analogy is visible in the ATS Motor privatization.

...

In addition, the NPM reforms have fostered opportunities for corruption between the public and private sectors. It opened the “floodgates of corruption” for public officials to extract rents from private firms (Polidano/ Hulme 2001: 287). The privatization, PPP, contracting out and outsourcing processes as indicated are fraught with corrupt opportunities

...

As well, the PPP in the water sector in 2000 was tainted with corruption leading to the withdrawal of the World Bank support. Also observed in the contracting out and outsourcing

⁶⁶ The following text-segments are taken from a summary of the literature on corruption in Ghana by Gborgsongu (2011, pp. 29-32)

processes, the World Bank Enterprise survey echoes the corrupt transactions between the public and private firms. Procurement awards also provide opportunities to favour party faithful and enhance underhand dealings, nepotism and ethnicity. Hence, the NPM reform under privatization, PPP, contracting out and outsourcing in Ghana provides alternative means “that allows the public sector to benefit from private sector competition, encourages business to lowball, in order to win the bid and get a foot in the door” (Maravic / Reichard 2003: 88).

Furthermore, the possibilities of corruption in Ghana’s NPM reforms are rife because of the weak state institutions and soft enforcement of regulations. The implementation of the reforms does not function as expected because the state remains weak and subject to informal influences (Aye 2008: 38). Regulations remain malleable to personal whims without recourse to accountability.

...

Additionally, though there is a well-laid out procurement law in Ghana that guides public tendering, bidding and contracting processes. The paradox is, “the legislative and regulatory framework for public procurement appears strong but the practical aspects of integrity and transparency are not highly commended” (Transparency International 2009: 181). This provides the leeway for procurement officials to extract benefits from potential bidders. Corruption is further exacerbated by the fact that, there are no legal mechanisms to monitor the assets, incomes and spending habits of public procurement officials (Global Integrity 2009: 97).

In addition, the NPM reforms in Ghana put more attention on efficiency and effectiveness than accountability concerns. The privatization decisions were more swayed towards economic gains while losing focus on transparency and fairness in the transfer process. In the case of the AVRL contract, the Revenue Account was placed under the sole management of AVRL under the pretext that AVRL is managerially, technologically, and financially more efficient than the GWCL. However, to ensure enough transparency and oversight in financial management, the Revenue Account could have been jointly controlled by AVRL and GWCL. Even the claim to efficiency of AVRL cannot be substantiated in the light of its poor performance (Jebuntie 2011: 10-16).

At this juncture, it is clear that the above findings are in sync with the conceptualization of the unintended consequences of NPM with regard to the motivation, opportunity and possibilities of corruption. As well, the case study findings correlate with the conceptual assumptions on the dysfunctional consequences of the NPM. Deducing from the convergence of the conceptual and empirical findings on the dysfunctional consequences, it is clear that the NPM reforms under privatization, PPP, outsourcing and contracting have fostered opportunities of corruption in Ghana. Public officials have exploited the new opportunities presented by the NPM structure to satisfy their personal interest. The NPM reform has to a larger extent co-opted and expanded the unattended market participants into the corruption frame in the public sphere. The then detached resources of the public sector are brought closer to the doors of the private sector. By mutual cooptation, it could be described as privatizing the domain of public sector corruption and vice versa. To this end, based on the various findings, the hypothesis holds that, the NPM reforms have fostered opportunities for corruption in Ghana.”

Appendix 5

The GCB (global corruption barometer) 2010/11 shows that for the Indonesians, people that have paid a bribe to public institutions are following enlisted: medical services (16%), customs (15%), judiciary (14%), police (11%), registry and permit services (10%), land services (9%), tax revenue (8%), and utilities (7%).

In the social aspect, the Indonesians are used to have attitudes and values of acceptance, patience, modesty and gratefulness, they are considered to be not ambitious and not individualistic, but other side of their personality is opportunistic and materialistic and this

coexistence of opposites seems not to be a conflict for engaging in illegal activities and corruption (Mulder 2006: 148-9).

The WBES (World Bank Enterprise Survey) for 2009 shows the perception of the firms about their experience with different types of services that they need to ask or get from the government. They expect to have to give gifts to the government/administration:

to public officials "to get things done" 15%

in meetings with tax officials 14%

to secure government contract 38%

to get an operating license 35%

to get an import license 18%

to get a construction permit 36%

to get an electrical connection 23%

to get a water connection 21%

The GCB 2010/11 shows that for the Filipinos surveyed that have paid a bribe to the institutions enlisted in the following order: customs (50%), police (32%), land services (19%), registry and permit services (17%), tax revenue (10%), judiciary (9%) and education (7%).

For the same table depicted for Indonesia about the selected bribe indicators from the 2009 WBES, the figure 5.5 shows that, amongst the five types of services where they bribe to obtain such service, the construction permit is the most recurrent, with 34.7%, followed by electrical connection with 19.6%, import license with 19.4%, operating license 10.6%, and water connection 7.4%. The kickbacks in the public procurement or the bribes to secure a government contract are highest even than Indonesia, with 58.5%, while bribes to tax officials rate 21.8%. Finally, petty corruption to bureaucrats, civil servants or public officials is 18.6%.

(collected materials/data from Padilla 2012, pp 30-39.)